

Message Text

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PAGE 01 MONTEV 04903 221917Z
ACTION ARA-10

INFO OCT-01 ISO-00 SS-15 L-03 H-01 DHA-02 IO-13 /045 W
----- 096546 /53
R 221220Z DEC 76
FM AMEMBASSY MONTEVIDEO
TO SECSTATE WASHDC 2845

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FOR RGRAHAM, ARA/ECA

E.O. 11652: N/A
TAGS: SHUM, UY
SUBJECT: HUMAN RIGHTS REPORT ON URUGUAY

REF: STATE 306617

1. SUMMARY. REPORT ON URUGUAY CONTAINED IN REFTEL BASICALLY REFLECTS THE SITUATION AS WE SEE IT. NEVERTHELESS, IT CONTAINS SOME ERRORS OF FACT WHICH SHOULD BE CORRECTED, AS INDICATED BELOW.

2. I. POLITICAL SITUATION. THIRD, FOURTH AND FIFTH SENTENCES SHOULD BE REPLACED BY THE FOLLOWING: "IN APRIL 1972, AFTER A PROLONGED PERIOD OF INTERNAL TURMOIL AND GROWING TERRORIST ACTIVITY, A STATE OF INTERNAL WAR, RESTRICTING CIVIL RIGHTS, WAS APPROVED BY THE CONGRESS AT THE EXECUTIVE BRANCH'S REQUEST. IN JULY 1972, THE CONGRESS APPROVED A NATIONAL SECURITY LAW WHICH CONTINUES IN EFFECT AND WHOSE CONSTITUTIONALITY WAS UPHELD BY THE SUPREME COURT. IN JUNE 1973 THE EXECUTIVE, WITH SUPPORT OF THE MILITARY, CLOSED THE CONGRESS, APPOINTED A COUNCIL OF STATE IN ITS PLACE AND INCREASED THE MILITARY'S PARTICIPATION IN THE GOVERNMENT." THE DEPARTMENT SHOULD NOTE THE NATIONAL SECURITY LAW WAS SUPPORTED BY BOTH TRADITIONAL PARTIES AND APPROVED BY A DEMOCRATICALLY ELECTED CONGRESS.
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IT WAS NOT ISSUED BY THE EXECUTIVE AND THE MILITARY AS STATED IN THE DEPARTMENT DRAFT.

3. II. LEGAL SITUATION. SECOND SENTENCE OF PARA TWO SHOULD HAVE PERIOD MID-WAY IN THAT SENTENCE SO THAT SECOND SENTENCE WOULD READ, "THE COUNCIL GAVE ITS APPROVAL TO THE EXECUTIVE DECREES WHICH

HAD DISSOLVED THE COMMUNIST-LED LABOR CENTRAL, OUTLAWED THE COMMUNIST PARTY AND A NUMBER OF OTHER MARXIST, EXTREMIST AND LEFTIST GROUPS AND PROVIDED FOR THE CONFISCATION OR TEMPORARY ATTACHMENT OF PROPERTY USED TO CARRY OUT CRIMES AGAINST THE NATION." TO CORRECT FACTUAL ERROR, SINCE ACTION NOT TAKEN BY EXECUTIVE DEGREE, BALANCE OF SECOND SENTENCE SHOULD BECOME THIRD SENTENCE READING AS FOLLOWS: "THE COUNCIL APPROVED A LAW ON DECEMBER 18, 1975 WHICH EXTENDED THE JURISDICTION OF MILITARY COURTS TO COVER THE TRIAL AND SENTENCING OF PERSONS ACCUSED OF TERRORISM, SUBVERSION AND CRIMES AGAINST THE NATION."

4. II. LEGAL SITUATION. THE FOLLOWING SHOULD BE ADDED AS A NEW FINAL SENTENCE: THE COUNCIL OF STATE, ON DECEMBER 21, 1976, APPROVED LEGISLATION REDUCING MINIMUM SENTENCES FOR CERTAIN ACTIVITIES ASSOCIATED WITH SUBVERSION. THE STATED INTENTION OF THIS AND THE STATE OF DANGER PROPOSAL IS TO RESTORE A GREATER MEASURE OF DUE PROCESS IN SECURITY CASES."

5. III. A. ARTICLE 8. THE FOLLOWING LANGUAGE MIGHT BE CLEARER THAN THAT NOW CONTAINED IN THE DRAFT. "WHILE ALL URUGUAYANS EQUALLY SHARE THE CONSTITUTIONAL RIGHT TO HAVE RECOURSE TO THE COURTS BY PRINCIPLES WHICH REMAIN IN FORCE AND APPLICABLE IN MOST RESPECTS, IT IS DIFFICULT TO OBTAIN RELIEF IN SECURITY CASES WHICH WERE TRANSFERRED TO MILITARY JURISDICTION BY THE LAW PASSED BY CONGRESS IN 1972 AND UPHELD BY THE SUPREME COURT AS WELL AS BY THE LAW PASSED IN DECEMBER 1975. BUT EVEN IN SECURITY CASES THERE EXISTS, IN THEORY AT LEAST, THE RIGHT OF APPEAL."

6. III. A. ARTICLE 9. SECOND SENTENCE, PARA TWO SHOULD BE REVISED TO READ AS FOLLOWS: "SOME PERSONS HAVE SOUGHT ASYLUM IN FOREIGN LIMITED OFFICIAL USE

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EMBASSIES, AND WHILE PROCESSING HAS OFTEN BEEN SLOW, EVENTUALLY ALL HAVE BEEN PERMITTED TO GO INTO EXILE. WE KNOW OF NO CASE WHERE THE ASYLEE HAS NOT BEEN ALLOWED TO LEAVE THE COUNTRY.

7. THE LAST TWO SENTENCES OF III A, ARTICLE 11, WHILE NOT INCORRECT, TEND TO WAFFLE THE ISSUE. WE BELIEVE IT WOULD BE BETTER TO INSERT THE USG VIEW AS THIS IS, AFTER ALL, OUR REPORT TO THE CONGRESS AND NOT JUST A RECITATION OF WHAT VARIOUS SOURCES STATE. CONSEQUENTLY, WE RECOMMEND THE LAST SENTENCE BE DELETED AND THE FOLLOWING SUBSTITUTED IN LIEU THEREOF: "WE BELIEVE THAT THIS FIGURE, WHICH IS SIGNIFICANTLY LESS THAN ESTIMATES BY OTHER SOURCES, SUCH AS AMNESTY INTERNATIONAL, IS SUBSTANTIALLY CORRECT." SIRACUSA

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, REPORTS, AGREEMENT DRAFT, TEXT, POLITICAL SITUATION, US CONGRESSIONAL PRESENTATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 22 DEC 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MONTEV04903
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760469-1158
From: MONTEVIDEO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761221/aaaaarnq.tel
Line Count: 110
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: STADIS
Reference: 76 STATE 306617
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by ShawDG>; APPROVED <29 OCT 2004 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: HUMAN RIGHTS REPORT ON URUGUAY
TAGS: SHUM, UY, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006